

O'DONNELL McCORD, P.C.

ATTORNEYS AT LAW

1725 HIGHWAY 35, SUITE C
WALL, NEW JERSEY 07719

T: (732) 681-0048

F: (732) 681-0053

Jonathan Testa*
JTESTA@OMLAWPC.COM
Attorney Id.: 015152009
* Member NJ and NY Bars

PLEASE REPLY TO WALL OFFICE

BERGEN COUNTY OFFICE
266 HARRISTOWN ROAD
GLEN ROCK, NEW JERSEY 07452

ESSEX COUNTY OFFICE
SEVEN HUTTON AVENUE
WEST ORANGE, NEW JERSEY 07052

MORRIS COUNTY OFFICE
15 MOUNT KEMBLE AVENUE
MORRISTOWN, NEW JERSEY 07960

August 21, 2018

VIA ECF

Honorable Brian R. Martinotti, U.S.D.J.
U. S. District Court for the District of New Jersey
Clarkson S. Fisher Building
402 East State Street, Room 2020
Trenton, New Jersey 08608

**Re: Curley v. Monmouth County Board of Chosen Freeholders, et al.,
Civil Action No.: 3:17-cv-12300-BRM-TJB**

Dear Judge Martinotti:

Please be reminded that this office represents Defendants' Monmouth County Board of Chosen Freeholders, et al., (hereinafter the "County Defendants") in the above-referenced matter.

In this regard, on or about February 15, 2018, the Honorable Mary Catherine Cuff, P.J.A.D. (Ret.) completed a Supplemental Report into certain allegations of misconduct, which were unrelated to the allegations that were the subject of Judge Cuff's initial Report. On February 22, 2018, the Supplemental Report was released to Plaintiff's counsel, Angelo Genova, Esq., as a matter of professional courtesy to him. Since then, the County Defendants have received multiple Open Public Records Act requests for the disclosure of Judge Cuff's Supplemental Report from various media outlets.

The February 15, 2018 Supplemental Report is not covered by the Court's December 1 and 4, 2017 sealing Orders. By its own terms, the Court's December 1, 2017 Order only sealed the initial Report, which was filed as an exhibit to plaintiff's Complaint. See ECF No. 4 ("Ordered request granted – document #2 will be sealed"). The Court's December 4, 2017 Order likewise sealed only the initial Report. See ECF No. 6 ("Further ordered document #2 to remain sealed"). The Court's December 2017 Orders could not have sealed the Supplemental Report because it would not be issued for another two and a half months. Also, the County Defendants have never consented to an order sealing the Supplemental Report.

Hon. Brian R. Martinotti, U.S.D.J.

August 21, 2018

Page 2

The Supplemental Report does not fall within any recognized exception to an OPRA request. Since receiving the Supplemental Report, plaintiff has not filed any application to protect it from being published.

Under these circumstances, it appears that the County has a legal obligation under OPRA to release the Supplemental Report. However, out of an abundance of caution and with the utmost respect for Your Honor's decision of July 25, 2018, the County Defendants respectfully seek clarification from Your Honor as to the scope of the Seal Order entered on December 4, 2017 in relation to this Supplemental Report. More specifically, the County Defendants seek direction from the Court as to whether Judge Cuff's Supplemental Report dated February 15, 2018 is also encompassed in and subject to Your Honor's Seal Order of December 4, 2017. See ECF No.: 6.

Should Your Honor's Chambers have any questions or require that a formal motion be filed, please do not hesitate to contact the undersigned directly at (973)538-1230. Thank you for your consideration.

Respectfully submitted,
O'DONNELL McCORD, P.C.
/s/ Jonathan Testa, Esq.
JONATHAN TESTA

JT:

cc: Angelo Genova, Esq. (Attorney for Plaintiff)
Bruce P. McMoran, Esq. (Attorney for Co-Defendants Fitzgerald & O'Connor)
Matthew J. O'Donnell, Esq.